

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	CC Docket No. 94-129
Selection Changes Provisions of the)	
Telecommunications Act of 1996)	
)	
Policies and Rules Concerning Unauthorized)	CC Docket No. 00-257
Changes of Consumers Long Distance Carriers)	

**VERIZON NEW YORK INC.'S PETITION FOR WAIVER
OF THE 30-DAY ADVANCE NOTIFICATION REQUIREMENT**

To avoid disruption of telephone service to New York customers of Claricom Networks, LLC, a competitive local exchange carrier that has ceased providing service in New York, the Commission should grant Verizon New York Inc. ("Verizon") a waiver of the 30-day advance notice requirement in 47 C.F.R. § 64.1120(e). Verizon is the default carrier in New York and is therefore required to take back the former Claricom customers in that state. A waiver of the 30-day advance notification requirement will allow a "seamless transition of service from the original carrier to the acquiring carrier"¹ and is therefore in the public interest.

Until very recently, Claricom provided resold telephone service in Massachusetts, New York, Pennsylvania, and Washington, D.C. On October 5, 2004, Verizon informed Claricom that, unless it paid its overdue wholesale bills, Verizon would be forced to terminate Claricom's service. Claricom instead filed an Exit Plan with the New York Public Service Commission ("PSC") on October 8, 2004, stating that Claricom would terminate service by November 8,

¹ *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 00-257, 94-129, Report and Order, 16 FCC Rcd 11218, para. 10 (rel. May 15, 2001).

2004.² Claricom also notified its customers that they must select a new local service provider by October 22, 2004.³ Claricom customers who did not act by this service cessation date will be transferred to Verizon as the default carrier. Approximately 70 Claricom customers are affected.

The Commission's streamlined procedures for acquiring part or all of another telecommunications carrier's subscriber base requires Verizon to notify both the Commission and the affected subscribers of a carrier change. *See* 47 C.F.R. § 64.1120(e). In relevant part, the regulations require at least 30 days' advance notice to both the Commission and the affected subscribers. *See id.* § 64.1120(e)(1), (e)(3). The notice must contain, among other things, information about the type of telecommunications services to be provided, the date of the transfer, and rate information. *See id.* § 64.1120(e)(1), (e)(3)(i)-(vii).

To comply with these regulations, Verizon would have had to provide notice to former Claricom New York customers by October 8. This was not possible. Further, Verizon will likely not know which former Claricom customers will be transferred to Verizon until some time after the November 8 termination date specified in Claricom's Exit Plan. Even as of the date of this filing, Verizon has not received from Claricom a final list of affected customers, and, as a result, the affected subscribers have not been transferred to Verizon. The New York PSC expects Verizon to begin switching these customers shortly, but, in any event, Verizon cannot switch the former Claricom customers until it receives a waiver of the 30-day advance notice requirements.

Recently, on nearly identical facts, the Consumer and Governmental Affairs Bureau ("the Bureau") granted Verizon's request for a waiver of the 30-day advance notification

² *See* Exh. 1.

³ *Id.*

requirements.⁴ The Bureau found that, because “compliance with the 30-day advance notice requirement could potentially result in the loss of local service for [the CLEC’s] customers during the 30-day period,” a waiver served the public interest.⁵ The Bureau also found it “unlikely that the affected subscribers will suffer harm from receiving less than 30 days notice of the transfer” and concluded that, in any event, “any such harms would be outweighed by the benefits of a seamless transfer of service.”⁶

Similarly, for Claricom’s former New York customers who have not selected a new service provider, Verizon’s compliance with the Commission’s 30-day advance notification requirement would result in the loss of local telephone service for more than a month. Verizon expects to learn shortly which customers have not selected a new carrier and will then promptly send the notification letters required by the Commission’s rules. Without a waiver, however, the earliest date by which Verizon could likely start service would be December 2004 or January 2005. Loss of local service for such a period of time is not in the public interest.

Because Claricom has already notified all affected customers that they must select a new provider or they will be automatically transferred to Verizon as the default provider, customers who did not select a new provider by the deadline and who would receive less than 30 days’ notice from Verizon will not suffer any harm. As the Bureau found in the *Verizon Waiver Order*,⁷ the benefits of Verizon’s providing fewer than 30 days’ notice to these subscribers --

⁴ *Verizon Petition for Waiver*, CC Docket Nos. 00-257, 94-129, Order, DA 04-2594, para. 8 (rel. Aug. 19, 2004) (*Verizon Waiver Order*).

⁵ *Id.* at para. 7.

⁶ *Id.*

⁷ *Id.*


seamless provision of local telephone service -- greatly outweighs any burden of the shorter notice -- loss of local telephone service for over 30 days.

Conclusion

For the foregoing reasons, the Commission should grant Verizon a waiver of the Commission's 30-day advance notice requirements so that former Claricom customers in New York can be transferred to Verizon without disruption of their local telephone service.

Respectfully submitted,

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Date: November 3, 2004

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EXHIBIT 1

NEW YORK PUBLIC SERVICE COMMISSION

In re: Claricom Networks, LLC,
Exit Plan

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Please find below Claricom Networks, LLC's Exit Plan, as required pursuant to New York Public Service Commission Case 00-C-0188, *Mass Migration Guidelines*, wherein the Commissions specifically requests the following:

1. A sample of the initial letter to be sent to the customers.

See Attachment A.

2. Plans for follow-up notification arrangements such as a second letter, phone calls, bill inserts, e-mails, etc.

Claricom will mail a copy of letter in Attachment A to all local service customers in New York no later than October 8, 2004. Further, account managers from each of Claricom and Carrier Support Group/IBS will contact each of the customers by phone no later than October 15, 2004 to confirm migration plans for the customer.

3. A proposed final termination date.

Notwithstanding the Commission's requirement that customers receive notification of 90 days, Claricom respectfully requests that the final termination date be November 8, 2004, as that is the date Verizon will terminate local services to Claricom. Claricom seeks to avoid interruption of service to the end users and believes that an earlier date helps ensure this scenario can be avoided.

4. A cut-off date when customers must select a carrier.

December 21, 2004, or earlier with the Commission's consent.

5. Contact names and telephone numbers for the cutover coordinator, the regulatory contact, and any other pertinent contacts such as CSR and and/or provisioning contacts, if separate.

Cutover Coordinator:

*David Glendenning
Carrier Support Group/IBS
6640 Lusk Blvd
Suite A104*

San Diego, California 92121
T: 866.659.4732
F: 866.872.0941

Wendy Hunter
Claricom Networks, LLC
2207 Commerce Street
Dallas, Texas 75201
T: 214.432.1448
F: 866.432.1448
whunter@matrixvalue.com

Regulatory contact:
Greg Taylor
Claricom Networks, LLC
300 N. Meridian
Suite 200-North
Oklahoma City, Oklahoma 73107
T: 405.717.9612
F: 405.951.6312
gtaylor@matrixvalue.com

6. Any arrangements made for an acquiring carrier.

Not applicable.

7. Steps to be taken with the number code and/or pooling administrator to transfer NXX or thousand number blocks (if applicable) while preserving number portability for numbers within the code.

Not applicable as there are no NXX codes or thousand number blocks assigned to Claricom Networks.

8. The current customer serving arrangements and the underlying service provider, e.g. UNE-P (x carrier), resale (y carrier), UNE-L (x carrier) or Full Facilities.

UNE-P	Not applicable
Resale	Verizon
UNE-L	Not applicable

9. Identification of customers where the exiting carrier is the only provider of facilities to a customer or group of customers.

Not applicable. All potentially affected customers are Verizon resale customers..

10. The number of customers impacted.

Approximately 127 customers.

11. A summary of how (what format) the customer service records (CSRs) are being kept, a statement of what data elements are in these CSRs (note that the data elements are defined in the End User Migration Guidelines CLEC-to-CLEC), and a statement about how the CSRs will be made available to other carriers.

Not applicable as none of the affected customers are UNE-P. Accordingly, to the extent the affected customers do not revert to Verizon for local services but instead elect to take service from a CLEC, the CSRs can be pulled from Verizon.

12. Any transfer of assets or control that requires Commission approval.

Not applicable.

13. Plans to modify/cancel tariff(s).

Claricom requests the Commission cancel its local service tariff on November 9, 2004.

14. Plans for handling customer deposits, credits, and/or termination liabilities or penalties.

<i>Customer deposits</i>	<i>Not applicable</i>
<i>Credits</i>	<i>Credits, if applicable will be determined on a case-by-case basis.</i>
<i>Termination liabilities</i>	<i>We do not anticipate any early termination liabilities as the existing contractual obligations will be assumed by Carrier Support Group/IBS</i>

15. Plans for unlocking the E-911 database, including the letter detailed in Section VIII.

Not applicable as Claricom Networks resells Verizon local services. Hence, Verizon maintains the E-911 database.

16. Capability and plans to implement "soft dial tone."

Not applicable.

Attachment A



October 8, 2004

Customer Name
Address
City, NY zip

YOUR SERVICE WILL BE TRANSFERRED TO VERIZON UNLESS YOU CHOOSE A NEW LOCAL TELEPHONE SERVICE PROVIDER BY OCTOBER 22, 2004!

Dear Customer:

We regret to inform you that because of recent regulatory changes, as of November 8, 2004, Claricom Networks will no longer be providing your local telephone service in New York.

If you do not select a new local telephone service provider on or before October 22, 2004, Verizon will automatically become your local telephone service provider effective November 8, 2004. If you select an alternative provider after October 22, 2004, your choice can only be put into effect after the change to Verizon and will therefore be delayed. If you select another provider of your choice, you may incur additional charges. In the transfer of service to Verizon, all efforts will be made so your local telephone number will remain the same and your existing local service and calling features will be transferred to Verizon.

If you do not want service from Verizon, your action is required! You must select a new local telephone provider as quickly as possible but no later than October 22, 2004.

If you have any questions regarding the discontinuance of Claricom's local telephone service, please call (800) 829-9866. Questions regarding Verizon should be directed to (866) 659-4732. Claricom regrets any inconvenience this change may cause you.

Sincerely,

Claricom Networks, LLC